

**Iowa Office of Chief Information Officer  
Contracts Declaration & Execution ("CD&E")**

<p><b>Title of Contract:</b> IT Research and Advisory Services Agreement ("Master Agreement" or "Agreement") leveraging State of Michigan Contract No. 171180000000065 for Gartner IT Research and Advisory Services and any and all corresponding solicitation/response documents <i>available at</i> <a href="https://www.michigan.gov/documents/localgov/7700214_611_708_7.pdf">https://www.michigan.gov/documents/localgov/7700214_611_708_7.pdf</a> or any successor webpage thereto and all amendments thereto and all related contract/solicitation/response documents referenced therein, including the Request for Proposal # 007117B0011385 published on Buy4Michigan and all corresponding Addenda ("RFP"), and Vendor's responsive technical and cost proposals thereto, all of which are incorporated by reference herein as Special Terms and Conditions (all of the foregoing shall be collectively referred to herein as the "Underlying Agreement").</p>	<p><b>Contract Number:</b> 2019 BUS 0401</p>	
<p><b>State Agency's Name:</b> Iowa Office of Chief Information Officer ("OCIO")</p>		
<p><b>Vendor's Name:</b> Gartner Group, Inc. ("Vendor").</p>		
<p><b>Contract to Begin/Effective As of the Date of Last Signature, below.</b></p>	<p><b>Date of Expiration:</b> March 31, 2020</p>	<p><b>Annual Extensions:</b> Optional one year extensions/renewals; provided that such extensions/renewals shall not extend beyond the total term of the Underlying Agreement, including any and all extensions/renewals thereto.</p>
<p><b><u>Documents Incorporated/Order of Precedence.</u></b> This Master Agreement, any and all attachments to this Master Agreement which are incorporated by reference as if fully set forth herein, and the RFP and Proposal which are incorporated by reference as if fully set forth herein, together comprise the terms and conditions governing the relationship between the Parties. In the case of any conflict or inconsistency between the specific provisions of this Master Agreement, any and all attachments to this Master Agreement, or the RFP and the Proposal, such conflict or inconsistency shall be resolved in the following order:</p> <ol style="list-style-type: none"> <li>1. First by giving preference to any other Special Terms and Conditions attached hereto.</li> <li>2. Second by giving preference to the specific provisions of this Master Agreement;</li> </ol>		

3. Third by giving preference to the specific provisions of the Underlying Agreement No. 007117B0011385 ("Underlying Agreement") with Vendor for IT Research and Advisory Services.
4. Fourth by giving preference to specific provisions of the RFP;
5. Fifth by giving preference to the Proposal;
6. Sixth by giving preference to the specific provisions of any Purchasing Instruments (Purchase Order(s)/Statement(s) of Work/Requisitions) executed hereunder;

**Notes:**

- **Consulting Services are NOT Available under this Agreement.**
- **This Agreement is for subscription based Research and Advisory Services only.**
- This Agreement does not guarantee any minimum level of purchases, usage, or compensation;
- Governmental Entities as further defined in Section 1.4, including State Agencies and political subdivisions of the State of Iowa may purchase Deliverable(s) available on the Underlying Agreement via this Agreement. Pricing identified in the Underlying Agreement is ceiling pricing only, and nothing in this Agreement shall be construed to prohibit or otherwise limit the State or any other Governmental Entities from negotiating lower prices for Deliverables provided hereunder.

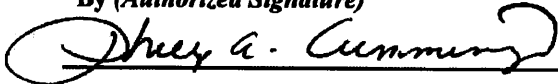
**[Signature Block on page 3]**

IN WITNESS WHEREOF, in consideration of the mutual covenants set forth in this Agreement and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the Parties have entered into this Agreement and have caused their duly authorized representatives to execute this Agreement.

Vendor: Gartner Inc.

By (Authorized Signature)

Date Signed



4/22/19

Printed Name and Title of Person Signing

Phillip A. Cummings - Contracts Counsel

Address

1201 Wilson Blvd. 17th Floor; Arlington VA 22209

State of Iowa, acting by and through the Office of the Chief Information Officer

By (Authorized Signature)

Date Signed



4/26/19

Printed Name and Title of Person Signing

Jeff Franklin, Chief Information Officer

Address

Iowa Office of the Chief Information Officer

Hoover Bldg. - Level B

1305 E Walnut St.

Des Moines, IA 50319



### **IT Research and Advisory Services Master Agreement**

This Agreement for IT Research and Advisory Services is made and is effective as of the date identified on the Contract Declarations and Executions Page (“**Effective Date**”), by and between the State of Iowa, acting by and through the Office of the Chief Information Officer (“**OCIO**”), and Gartner, Inc., a corporation organized under the laws of Delaware (“**Vendor**”). The parties may be referred to herein individually as a “**Party**” or collectively as the “**Parties**”; provided, however, that where the context clearly requires, the term “**Party**” or “**Parties**” may refer to or include the Governmental Entity making the individual purchase(s) hereunder. The Parties agree to the following:

#### **1. Overview.**

- 1.1. **Purpose.** This Master Agreement establishes the terms and conditions pursuant to which Governmental Entities in the State of Iowa may procure Subscription based Information Technology Research Products, pursuant to the Underlying Agreement. This Master Agreement does not guarantee any minimum level of purchases, usage, or compensation.
- 1.2. **Authorities.** OCIO enters into this Master Agreement, as it relates to IT Research and Advisory Services, available pursuant to the Underlying Agreement pursuant to Iowa Code section 8B.24(5)(c). This Section authorizes the Office “on its own behalf or on the behalf of another participating agency or governmental entity, [to] procure information technology by leveraging an existing competitively procured contract . . .” or “[to] procure information technology under a contract let by another agency or other governmental entity, or approve such procurement in the same manner by a participating agency or governmental entity.” In the alternative, Iowa Code section 8B.24(5)(a) authorizes “the office [to] enter into a cooperative procurement agreement with another governmental entity relating to the procurement of information technology, whether such information technology is for the use of the office or other governmental entities.” OCIO has concluded this is in the best interests of the State of Iowa because Vendor is a known provider that has historically provided quality Deliverables to the State, the Underlying Agreement was the product of a competitive process conducted at the national level and thereby resulted in leveraged volume purchasing discounts in excess of those which the State would likely obtain if it conducted a separate competitive process, and utilizing the Underlying Agreement saves the State time and money associated with conducting a separate, duplicative competitive process.
- 1.3. **Term.** The initial term of this Master Agreement shall be as stated on the CD&E, unless terminated earlier in accordance with the terms of this Master Agreement. After expiration of the initial term, OCIO shall have the option to extend/renew this Master Agreement for additional one-year renewal terms; provided that any such extensions/renewals shall not extend beyond the total term of the Underlying Agreement, including any and all extensions/renewals thereto. The decision to extend this Master Agreement shall be at the sole option of OCIO and may be exercised by OCIO by providing written notice to Vendor.
- 1.4. **Relationship between this Agreement and Individual Purchasing Instruments.** Each Purchasing Instrument executed hereunder shall be deemed, upon its execution, to incorporate the terms and conditions of this Master Agreement and shall constitute a separate, distinct, and independent Agreement between Vendor and the applicable Governmental Entity. For purposes of this Master Agreement, a “**Governmental Entity**” means Participating Agencies as defined in Iowa Code Section 8A.101, or any successor provision to that section, including agencies, independent agencies, the Judicial Branch, or any political subdivision of state or local government in the State of Iowa. To the extent a Governmental Entity other than OCIO makes a purchase hereunder pursuant to a Purchasing Instrument executed by it, such Governmental

Entity shall be solely responsible for any payments due and duties and obligations otherwise owed Vendor under this Agreement. In addition, notwithstanding any other provision of this Agreement to the contrary, OCIO bears no obligation or liability for any other Governmental Entity's losses, liabilities, or obligations, including Vendor's failure to perform, arising out of or relating in any way to this Master Agreement. Likewise, the State of Iowa generally bears no obligation or liability for any political subdivision or other non-State Entity's losses, liabilities, or obligations, including Vendor's failure to perform, arising out of or relating in any way to this Master Agreement.

- 1.5. **Incorporation of the Underlying Agreement.** The Underlying Agreement identified on the CD&E is incorporated by reference as if fully set forth herein. Governmental Entities making purchases hereunder shall be afforded all of the rights, privileges, warranties, and indemnifications afforded the State of Michigan, and such rights, privileges, warranties, and indemnifications shall accrue and apply with equal effect to Governmental Entities making purchases hereunder. Except as otherwise provided herein, Vendor shall perform all duties, responsibilities and obligations required under the Underlying Agreement in the time and manner specified thereunder. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and the Underlying Agreement, such conflict or inconsistency shall be resolved as stated on the CD&E.
2. **Licensing Term.** Notwithstanding the foregoing, or anything else in the Underlying Agreement or any related agreement(s) (including, solely to the extent legally and validly incorporated into the Underlying Agreement, any shrink-wrap, click-wrap, browser-wrap, privacy policies, online terms, or any terms incorporated or embedded in any programs, software, or the like) ("**Related Agreement(s)**") to the contrary, any software, program, infrastructure, platform, or other licenses, including any subscription licenses, shall continue beyond any expiration or termination of the Underlying Agreement in accordance with the underlying license term and in accordance with the terms and conditions of this Master Agreement and the Underlying Agreement, unless and until such license is terminated for cause, and solely to the extent such license is paid for in accordance with the terms of this Master Agreement and the Underlying Agreement.
3. **Payment Terms.** Notwithstanding anything in the Underlying Agreement or any Related Agreements to the contrary, the Participating Agency shall pay all undisputed amounts set forth in approved invoices in conformance with Iowa Code Section 8A.514 and 11 Iowa Admin. Code 41.1(2). The Participating Agency may pay in less than sixty (60) days, as provided in Iowa Code Section 8A.514. However, an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa Code Section 8A.514. Notwithstanding, the Participating Agency, in its sole discretion, may elect to prepay fees for services and deliverables in accordance with applicable laws, rules, policies, and procedures, including State of Iowa Accounting Policies and Procedures, *available at: <https://das.iowa.gov/state-accounting/sae-policies-procedures-manual>*.
4. **Confidentiality.** Notwithstanding anything in the Underlying Agreement or any Related Agreements to the contrary, any duties or obligations as it relates to any terms and conditions requiring the Participating Agency to maintain Vendor's information in confidence shall be subject to and limited by applicable State laws, rules and regulations, including, without limitation, Iowa Code Chapter 22, and fair information practices rules. The Participating Agency shall not be in breach of the Underlying Agreement or any Related Agreements for any failure to comply with any provision relating to confidential information if the Participating Agency is complying with or attempting to comply with any such laws, rules, and regulations in so doing. In addition, and notwithstanding anything in the Underlying Agreement or any Related Agreements to the contrary, the Participating Agency may disclose Vendor's Confidential Information:

- 4.1. Pursuant to any legal, judicial, regulatory, or administrative proceedings, subpoena, summons, deposition, interrogatory, requests for documents, order, ruling, civil investigative demand, or other legal, administrative or regulatory processes;
- 4.2. Pursuant to any applicable laws, rules, or regulations;
- 4.3. If the Participating Agency reasonably determines such information is not a confidential record pursuant to Iowa Code Section 22.7 or other applicable laws, rules, and regulations; or
- 4.4. If the Participating Agency determines Vendor has not provided or is unwilling to provide facts sufficient to enable the Participating Agency to make a determination as to whether such information constitutes a confidential record under Iowa Code Section 22.7 or other applicable laws, rule, and regulations.

Prior to disclosing any of Vendor's Confidential Information as permitted above, the Participating Agency shall provide reasonable notice to Vendor of the circumstances giving rise to such disclosure.

The Participating Agency shall remain the sole and exclusive owner of any and all information supplied or provided by it, directly or indirectly, to Vendor in connection with this purchase, including by or through the use of any programs, software, infrastructure or platform services, or otherwise. Each Party acknowledges and agrees that due to the unique nature of confidential information there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach or threatened breach may allow a Party or third parties to unfairly compete with the other party resulting in irreparable harm to such Party, and therefore, that upon any such breach or any threat thereof, each party will be entitled to appropriate equitable remedies, and may seek injunctive relief from a court of competent jurisdiction without the necessity of proving actual loss, in addition to whatever remedies either of them might have at law or equity. Any breach of any provisions relating to confidential information will constitute a material breach of the agreement between the Parties and be grounds for immediate termination in the exclusive discretion of the non-breaching Party.

Any/all provisions relating to confidential information shall survive termination/expiration of the Underlying Agreement or any Related Agreements.

5. **Limitation of Liability.** If the Underlying Agreement or any Related Agreements contain any provision(s) limiting Vendor's liability or providing for sole and exclusive remedies, any such provision(s) shall be superseded by or subject to the following, as applicable: Notwithstanding anything in the Underlying Agreement or any Related Agreements to the contrary, and solely to the extent permitted by applicable laws, rules and regulations: (a) the maximum liability of either Party, including the Participating Agency, for direct damages shall be the Contract Value ("**Contract Value**" is defined as the aggregate total compensation to be paid by the customer/State of Iowa under the entire term, including all renewals and extensions); and (b) neither Party, including the Participating Agency, shall be liable to the other for consequential, incidental, indirect, special, or punitive damages; provided, however, under no circumstances shall the foregoing limitations or any other provision in the Underlying Agreement or any Related Agreement that either limits Vendor's liability or provides for sole or exclusive remedies apply to any losses, damages, expenses, costs, settlement amounts, legal fees, judgments, actions, claims, or any other liability arising out of or relating to:

- 5.1. Intentional torts, criminal acts, fraudulent conduct, intentional or willful misconduct, or gross negligence;
- 5.2. Death, bodily injury, or damage to real or personal property;
- 5.3. Any contractual obligations of Vendor pertaining to indemnification; intellectual property; liquidated damages; compliance with applicable laws; and/or confidential information;

- 5.4. Claims arising under the Underlying Agreement or any Related Agreements calling for indemnification of the State or for third-party claims against the State for bodily injury to persons or for damage to real or tangible personal property caused by Vendor's negligence or willful conduct.

Notwithstanding anything in the Underlying Agreement or any Related Agreements to the contrary, nothing in the Underlying Agreement or any Related Agreements shall be construed as waiving any immunity to suit or liability, in state or federal court, which may be available to the State of Iowa or any State of Iowa governmental entities making purchases by leveraging the Underlying Agreement, including sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States, or otherwise.

**6. Indemnification.**

- 6.1. **Vendor.** Notwithstanding anything in the Underlying Agreement or any Related Agreements to the contrary, any right or obligation of Vendor to defend the Participating Agency or State of Iowa, or any of their employees, officers, board members, agents, representatives, officials, or other like individuals, shall be deleted and/or replaced and superseded solely with an obligation to indemnify and hold harmless the Participating Agency or State of Iowa, including its employees, officers, board members, agents, representatives, officials, or other like individuals ("**State Indemnitees**"). For the avoidance of doubt, Vendor shall have no right or obligation to defend any State Indemnitees or be deemed to have been granted settlement authority as it relates to any claims made against any Indemnitees; provided that the State of Iowa may, solely to the extent permitted by applicable law, be required to: (i) notify Vendor in writing of any claims for which it or any State Indemnitees may subsequently seek reimbursement within a reasonable time; and (ii) afford Vendor the right to participate in an advisory capacity in the defense and settlement of any claims for which it or any State Indemnitees may subsequently seek reimbursement.

- 6.2. **State of Iowa.** Notwithstanding anything in the Underlying Agreement or any Related Agreements to the contrary, the Participating Agency and State of Iowa shall under no circumstances have any obligation to defend, indemnify, or hold harmless Vendor or its subcontractors, agents, or other third parties acting on its behalf or otherwise related to it for any reason ("**Vendor Indemnitees**"). Solely to the extent permitted by applicable law, any obligation of the Participating Agency or State of Iowa to defend, indemnify, or hold harmless Vendor Indemnitees in the Underlying Agreement or any Related Agreements shall be deleted and/or replaced and superseded with a contractual obligation between the Participating Agency and Vendor as it pertains to the content/subject matter related thereto.

7. **Additional Remedies in the Event of Security Breach.** Upon the Participating Agency's determination that a Security Breach involving or relating to Services Data has occurred, Vendor shall fully cooperate with the Participating Agency or its designee in fully rectifying/responding to such Security Breach, including notifying all of the Participating Agency's or any other State of Iowa affected users. The Participating Agency shall determine, in its sole discretion, the content and means of delivery of any such notifications. Notwithstanding anything in the Underlying Agreement or any Related Agreements to the contrary, Vendor will be solely responsible and liable for all costs, expenses, damages, fines, penalties, taxes, assessments, legal fees, claims, service fees, and any and all other amounts of any kind or nature whatsoever (including the reasonable value of time of the Iowa Attorney General's Office or the costs, expenses and attorney fees of other counsel retained by the State of Iowa) related to, arising out of, or incurred by or on behalf the Participating Agency or the State of Iowa as a result of, any Security Breach caused directly or indirectly, in whole or in part, by Vendor, including the cost of: notifying affected individuals and businesses or reporting to applicable regulators (including



preparation, printing, mailing and delivery); opening and closing accounts, printing new checks, embossing new cards; forensic and other audits, investigations, public relations services, call center services, websites and toll-free numbers for assisting affected individuals; obtaining credit-monitoring services and identity-theft insurance for any person or entity whose information has or may have been acquired or compromised; and all other costs associated with corrective or other actions that are taken to mitigate or address the Security Breach. Vendor will reimburse or pay to the Participating Agency or the State of Iowa all such expenses, fees, damages, and all other amounts within fifteen (15) business days of the date of any written demand or request delivered to Vendor. For purposes of this Section, **"Security Breach"** means the unauthorized acquisition of or access to any information or data of or belonging to the Participating Agency or the State of Iowa by an unauthorized person that compromises the security, confidentiality, or integrity of such data or information including instances in which internal personnel access systems in excess of their user rights or use systems inappropriately. **"Security Breach"** shall also be deemed to include any breach of security, confidentiality, or privacy as defined by any applicable law, rule, regulation, or order.

8. **Reserved.**
9. **Choice of Law/Forum.** Notwithstanding anything in the Underlying Agreement or any Related Agreement to the contrary, this purchase shall be governed in all respects by, and construed in accordance with, the laws of the State of Iowa, without giving effect to the choice of law principles thereof. Any and all litigation or actions commenced in connection with this purchase, including after expiration or termination of the same, shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa, if jurisdiction is proper. However, if jurisdiction is not proper in the Iowa District Court for Polk County, but is proper only in a United States District Court, the matter shall be commenced in the United States District Court for the Southern District of Iowa, Central Division. Vendor irrevocably: (i) consents and agrees that any legal or equitable action or proceeding arising under, in connection with, or arising out of the Underlying Agreement or any Related Agreements shall be brought and maintained exclusively in the aforesaid courts; (ii) submits to and accepts, with respect to any such action or proceeding, for it and in respect of its properties and assets regardless of the physical or legal situs thereof, generally and unconditionally, the jurisdiction of the aforesaid courts; and (iii) waives any objection to such jurisdiction based on forum non conveniens or otherwise.
10. **Equal Opportunity/Affirmative Action.** Vendor represents, warrants, covenants, and promises that it will comply with all applicable federal, state, foreign, and local laws, rules, regulations, codes, standards, ordinances, and orders prohibiting discriminatory employment practices or related to equal opportunity in employment or affirmative action, including Iowa Code chapter 216 and section 19B.7 and the rules of the Iowa Department of Administrative Services and the Iowa Civil Rights Commission. Upon the the Participating Agency or its designee's written request, Vendor shall submit a copy of its affirmative action plan, containing goals, time specifications, accessibility plans, and policies as required by Iowa Administrative Code chapter 11—121. Vendor shall take such steps as necessary to ensure its subcontractors are bound by the terms and conditions contained in this Section. Failure to fulfill any requirement set forth in this Section shall be regarded as a material breach and the Participating Agency or OCIO may cancel, terminate, or suspend, in whole or in part, the PO. In addition, Vendor may be declared ineligible for future State contracts in accordance with authorized procedures or be subject to other sanctions as provided by law or rule.
11. **Termination for Non-Appropriation.** Notwithstanding anything in the Underlying Agreement or any Related Agreements to the contrary, and in addition to any other termination provision(s) set forth therein, in the event of a Non-Appropriation Event, the Participating Agency or OCIO may terminate the PO in whole or in part, without advance notice and without penalty or liability to the Participating Agency. In the event of such termination, any further obligation owed to Vendor by the Participating

Agency shall be limited by, and subject to, legally available funds. For purposes of this Section the term **"Non-Appropriation Event"** means any of the following:

- 11.1. The legislature or governor fail, in the sole opinion of the Participating Agency, to appropriate funds sufficient to allow the Participating Agency to either meet its obligations under the PO, this Master Agreement, the Underlying Agreement, or any Related Agreements or to operate as required or to fulfill its obligations under the same;
  - 11.2. If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by the Participating Agency (regardless of the source of funding or revenues) to make any payment in accordance with the terms of this Master Agreement, the Underlying Agreement, or any Related Agreements are insufficient or unavailable for any other reason as determined by the Participating Agency in its sole discretion;
  - 11.3. If the Participating Agency's authorization to conduct its business or engage in activities or operations related to the subject matter of the PO, this Master Agreement, the Underlying Agreement, or any Related Agreements is withdrawn or materially altered or modified;
  - 11.4. If the Participating Agency's duties, programs, or responsibilities are modified or materially altered; or
  - 11.5. If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation, or order is enacted, promulgated, or issued that materially or adversely affects the Participating Agency's ability to fulfill any of its obligations under this Master Agreement, the Underlying Agreement, or any Related Agreements.
12. **Use of Third Parties Prohibited.** Vendor shall not subcontract out any of the services described hereunder.
  13. **Conflicts of Interest.** Vendor represents, warrants, and covenants that no relationship exists or will exist during the term of this Master Agreement, the Underlying Agreement, or any Related Agreements between Vendor or Vendor Agents and OCIO or the Participating Agency that is or may constitute a conflict of interest or appearance of impropriety. To the extent applicable, the provisions of Iowa Code Chapter 68B shall apply this Master Agreement, the Underlying Agreement, or any Related Agreements, and Vendor and Vendor Agents shall not engage in any conduct or permit any third party from engaging in any conduct that would violate that chapter.
  14. **Records Retention and Access.** Vendor shall maintain books, documents and records that sufficiently and properly document Vendor's performance under this Master Agreement, the Underlying Agreement, or any Related Agreements, including records that document all fees and other amounts charged during the term of this Master Agreement, the Underlying Agreement, or any Related Agreements, for a period of at least five (5) years following the later of the date of final payment, termination or expiration of the same, or the completion of any required audit. Vendor shall permit the Participating Agency or its designee, and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, at no charge, to access and examine, audit, excerpt and transcribe any pertinent books, documents, electronic or optically stored and created records or other records of Vendor relating directly or indirectly to Vendor's performance under the PO, this Master Agreement, the Underlying Agreement, or any Related Agreements. Vendor shall not impose a charge or seek payment for any fee, charge, or expense associated with any audit or examination of such books, documents and records.
  15. **Administrative Fees.** Without affecting the prices/rates, Vendor is authorized to charge the Participating Agency hereunder, Vendor shall provide to OCIO a 1.00% administrative fee on the sales made by and through this PO. This 1.00% administrative fee shall be paid quarterly to:

**Attn: Business Services Division Administrator**

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**Iowa Office of the Chief Information Officer**

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**Hoover State Office Building, Level B**

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**Des Moines, IA 50319**

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Payment shall be made in accordance with the following schedule:

<b><u>Period End</u></b>	<b><u>Fee Due</u></b>
June 30	July 31
September 30	October 31
December 31	January 31
March 31	April 30

16. **Independent Contractor.** Vendor is an independent contractor of OCIO and the Participating Agency. No Vendor Agents shall be considered employees of OCIO or the Participating Agency, and shall not be entitled to any benefits typically afforded any employees of OCIO or the Participating Agency.
17. **Not a Joint Venture.** Nothing in this Master Agreement, the Underlying Agreement, or any Related Agreements shall be construed as creating or constituting the relationship of the partnership, joint venture (or other association of any kind or agent/principal relationship) between the Parties hereto. No Party, unless otherwise specifically provided for herein, has the authority to enter into any agreement or create an obligation or liability on behalf of, in the name of, or binding upon, another Party.
18. **Multiple Counterparts.** The PO and this Master Agreement may be executed in several counterparts, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the PO and this Master Agreement so executed shall constitute an original.
19. **Reserved.**
20. Notwithstanding anything in this Master Agreement, the Underlying Agreement, or any Related Agreements to the contrary, any terms, conditions, or requirements of the Underlying Agreement or any Related Agreements that conflict with, are inconsistent with, are prohibited by, or are not permitted by applicable law, rule, regulation, order, or policy shall be replaced or superseded by terms, conditions, or requirements that comply with the minimum requirements of applicable law, rule, regulation, order, or policy. In addition, Vendor shall generally cooperate with OCIO and the Participating agency in complying with any of its legal obligations imposed by applicable law, rule, regulation, order, or policy.

**Special Terms and Conditions:****Iowa Department of Revenue Confidential Information Requirements for Contractors****I. Access to Confidential Data**

The contractor's employees, agents, and subcontractors may have access to confidential data maintained by the Iowa Department of Revenue (hereafter referred to as 'IDR' or 'the Department') to the extent necessary to carry out its responsibilities under the Contract. The contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the Department.

**II. Performance**

In performance of the Contract, the contractor agrees to comply with and assume responsibility for compliance by its employees, agents, or subcontractors with the following requirements:

- 1) All work will be done under the supervision of the contractor or the contractor's employees.
  - i) The contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the contractor in connection with the performance of its duties under the Contract.
  - ii) The contractor shall provide adequate supervision and training to its employees, agents, or subcontractors to ensure compliance with the terms of the Contract. Annual training shall include, but is not limited to, the IRS video "Protecting Tax Information".
  - iii) The contractor shall provide acceptance by its employees, agents, or subcontractors, by signature, of the terms of federal and state confidentiality disclosure (see Exhibit 1 Acknowledgment of Statements of Confidentiality).
  - iv) The contractor shall provide to the Department a written description of its policies and procedures to safeguard confidential information. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats.
  - v) The contractor will maintain a list of employees, agents, or subcontractors with authorized access to the Department's data. Such list will be provided to IDR and, when federal tax information (FTI) is involved, to the Internal Revenue Service (IRS) reviewing office upon request.
  - vi) The contractor and the contractor's employees, agents, and subcontractors with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.
  - vii) No work furnished under this Contract will be subcontracted without prior written approval from the Department. If written approval is received, all subcontractors and subcontractor's employees shall be held to the same standards as the contractor and the contractor's employees, including, but not limited to, annual training and acceptance of confidentiality disclosure.
  - viii) No data can be accessed by contractor, or contractor's employees, agents, and subcontractors located offshore or via any information systems located off-shore.
  - ix) The contractor will complete a security risk assessment questionnaire annually, as part of a certification process with the Department.
- 2) Any tax information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of its duties under this Contract. Inspection by or disclosure to anyone other than an authorized officer, employee, agent or subcontractor of the contractor is prohibited.
- 3) All tax information will be accounted for upon receipt and properly safeguarded in accordance with security requirements set forth in this Contract before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.

- 4) Upon completion of duties under this Contract or the specific direction of IDR, the contractor will certify that the data processed and any output generated during the performance of duties under this Contract will be completely purged from all data storage components, including, but not limited to data center facility, laptops, computers and other storage devices. If immediate purging of all data storage components is not possible, the contractor will certify that any tax information remaining in any storage component will be safeguarded to prevent unauthorized disclosures until it has been purged. Once all data processed and output generated has been completely purged, the contractor shall submit a signed certification to the Department to that effect.
- 5) Any spoilage or intermediate hardcopy output that may result during the processing of tax information will be given to the Department. When this is not possible, the contractor will be responsible for the destruction of the spoilage or intermediate hard copy printouts, and will provide the Department with a statement containing the date of destruction, description of material destroyed, and the method used. Destruction method must meet specifications as defined in IRS Publication 1075 Section 8.3.
- 6) The contractor will ensure that all computer systems processing, storing, or transmitting tax information meets the computer system security requirements defined in IRS Publication 1075 Section 9.1. The security features of the computer systems must meet all functional and assurance requirements for the managerial, operational, and technical security controls. All security features must be available and activated to protect against unauthorized use of and access to tax information.
- 7) The use of personally owned computers for accessing IDR information is strictly prohibited.
- 8) Any data supplied by IDR to the contractor or contractor's employees, agents, or subcontractors or created by the contractor or contractor's employees, agents, or subcontractors in the course of the performance of its duties under this Contract shall be considered the property of IDR. No confidential information collected, maintained, or used in the course of performance of the Contract shall be disseminated by the contractor or contractor's employees, agents, or subcontractors except as authorized by law and only with the prior written consent of the Department, either during the period of the Contract or thereafter. The contractor may be liable for an unauthorized disclosure if it fails to comply with federal and state confidential safeguard requirements.
- 9) In the event that a subpoena or other legal process is served upon the contractor for records containing confidential information, the contractor shall promptly notify IDR and cooperate with the Department in any lawful effort to protect the confidential information.
- 10) The contractor shall immediately report to IDR any unauthorized disclosure or security breach of confidential information. These include, but are not limited to: (i) Unauthorized access or disclosure of confidential information; (ii) Illegal technology transfer; (iii) Sabotage, destruction, theft, or loss of confidential information or the information systems, and (iv) Compromise or denial of confidential information or information systems.
- 11) IDR and the IRS, with 24 hour notice, shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this Contract for compliance with requirements defined in IRS Publication 1075. The IRS's right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. An inspection questionnaire may be used in lieu of an on-site visit at the discretion of the IRS. On the basis of such inspection, specific actions may be required of the contractor in cases where the contractor is found to be noncompliant with Contract safeguards.

- 12) If the Department is required to notify taxpayers of a security or confidentiality breach caused by the contractor, the Department is entitled to reimbursement of such costs related to this notification from the contractor (see Iowa Code § 715C.2).
- 13) If the contractor fails to provide the safeguards described above, IDR will have the right to void the Contract immediately.
- 14) The contractor's confidentiality obligations under this section shall survive the termination of this Contract.
- 15) Any disclosure of federal tax information shall be subject to penalties prescribed by IRC §§ 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1. Any disclosure of state tax information as governed by the Iowa Code Ann., §§ 422.20, 422.72, and 452A.63, shall be subject to penalties prescribed therein.

### **III. Criminal/Civil Sanctions**

- 1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Each officer and employee shall be further notified that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC §§7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- 2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Agreement. Inspection by any unauthorized person constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Each such officer and employee shall be notified that any such unauthorized inspection of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection plus in the case of a willful inspection which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC §§ 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.
- 3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

- 4) **Granting a contractor access to FTI must be preceded by certifying that each individual understands IDR's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in IDR's files for review. As part of the certification and at least annually afterwards, the contractor shall be advised of the provisions of IRC §§7213, 7213A, and 7431. The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches (See Publication 1075 Section 10). For both the initial certification and the annual certification, the contractor's employees, agents, and subcontractors shall sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.**

